REMARKS

In a final Office Action dated March 11, 2004 (paper no. 8), the Examiner rejected claims 1-5 under 35 U.S.C. §103(a) as being unpatentable over Heikkinen et al. (WO 00/41431, hereinafter referred to as "Heikkinen") in view of Dempo (U.S. patent no. 6,587,465). The rejections are traversed and reconsideration is hereby respectfully requested.

Claim 1 teaches a backhauling method comprising determining whether to convey information received from a mobile station in 'a backhaul frame based on a decoding metric, in response to determining to not convey the information in the frame, controlling, in a base station transceiver, a header for a packet frame to be communicated between the base station transceiver and a network controller wherein a portion of the header identifies the frame as one containing no data package, and transmitting the frame to the network controller with the constructed header and without the data package.

Neither Heikkinen nor Dempo teaches backhauling a frame without a data package. Heikkinen teaches a base station that receives a frame from a mobile station. An uplink judging means of the base station judges a quality of the received frame. When the quality of the received frame falls below the predetermined threshold, the base station tags the frame with a flag indicating that the data is of unacceptable quality and forwards the frame, including the defective data and the flag, to a radio network controller (RNC).

Similarly, Dempo teaches a base station that receives a frame from a mobile station that includes user data. A wireless communication layer terminating part of the base station makes a quality measurement, such as a field strength or error rate measurement, with respect to the frame and then a quality checking part of the base station performs a quality check by comparing the measurement to quality information. When the quality measurement compares unfavorably with corresponding quality information, the quality checking part outputs an invalid data generated notice. Based on the invalid data generated notice, the base station then generates a data packet that includes an valid/invalid data identifier that identifies the data as invalid data and that
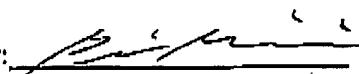
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further includes the invalid user data or alternatively dummy data. The base station then conveys the data packet to a mobile switching center (MSC).

By contrast, claim 1 teaches a backhauling of a frame without any data package. If the RNC of Heikkinen or the MSC of Dempo received a frame without any data package, the RNC or MSC would not know what to make of the frame. In claim 1, the frame includes a header indicating that there is no data package because the frame is not intended to include a data package. Such a frame is not taught by either Heikkinen or Dempo. Accordingly, the applicants respectfully request that claim 1 may now be passed to allowance.

Since claims 2-5 depend upon allowable claim 1, the applicants respectfully request that claims 2-5 may now be passed to allowance.

As the applicants have overcome all substantive rejections given by the Examiner and has complied with all requests properly presented by the Examiner, the applicants contend that this Amendment, with the above discussion, overcomes the Examiner's objections to and rejections of the pending claims. Therefore, the applicants respectfully solicit allowance of the application. If the Examiner is of the opinion that any issues regarding the status of the claims remain after this response, the Examiner is invited to contact the undersigned representative to expedite resolution of the matter.

Respectfully submitted,
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By: _____

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